A BILL FURTHER TO AMEND THE CODE OF CRIMINAL PROCEDURE, 1904, AND THE COURT-FEES REGULATION, 1900.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1904, and the Court-fees Regulation, 1900; His Highness the Maharaja is pleased to enact as follows :—

Short title

1. This Regulation may be called the Code of Criminal Procedure (Amendment) Regulation, 192.

2. In Clause (r) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1904 (hereinafter referred to as the said Code), after the words " means a pleader," the words "or a mukhtar" shall be inserted, and the words " mukhtar or " shall be omitted.

Amendment of section 10, Code of Criminal Procedure, 1904.

3. In section 10 of the said Code,—

(*i*) in sub-section (2), the words " for a period not exceeding six months " shall be omitted, and after the words " under this Code " the words " or under any other law for the time being in force," shall be inserted; and

(*ii*) after sub-section (2) the following sub-section shall be added, namely :—

" (3) For the purposes of sections 192, sub-section (1), 407, sub-section (2), and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate."

Amendment of section 35, Code of Criminal Procedure, 1904.

4. (1) In section 35 of the said Code,—

(*i*) in sub-section (1), for the words " When a person is convicted at one trial of two or more distinct offences, the Court may," the following shall be substituted, namely :—

" When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code as applied to Mysore "; and

(*ii*) in sub-section (3), for the word " aggregate " the words " the aggregate of consecutive " shall be substituted.

(2) The *Explanation* and *Illustration* to this section are hereby repealed.

Amendment of section 40, Code of Criminal Procedure, 1904.

5. In section 40 of the said Code, for the word " transfer ed " in both places where it occurs, the word " appointed " shall be substituted, and the words " continue to " shall be omitted, and for the words " to which " the words " in which " shall be substituted.

Amendment of section 45, Code of Criminal Procedure, 1904.

6. In section 45 of the said Code,—

(1) in sub-section (1),—

(*a*) after the word " occupier ", where it occurs for the second time, the words " in charge of the management of that land " shall be inserted, and for the word " obtain " the word " possess " shall be substituted;

(*b*) to clause (*d*), after the words " suspicious circumstances," the following words shall be added, namely :—

" or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person ;" and

(*c*) in clause (*e*), after the word "namely," the figures "231, 232, 233, 234, 235, 236, 237, 238," shall be inserted, and for the word and figures "and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D" shall be substituted; and

(*ii*) in sub-section (3), after the words "District Magistrate," the words "or Sub-Divisional Magistrate" shall be inserted; after the word "persons" the words "with his or their consent" shall be inserted; and for the words "to be village headman for the purposes of this section in any village for which there is no such headman appointed under any other law" the following shall be substituted, namely :—

"to perform the duties of a village headman under this section whether a village headman has or has not been appointed for that village under any other law."

Amendment of section 54, Code of Criminal Procedure, 1904.

7. In section 54 of the said Code, in clause *fourthly*, for the word "or" the word "and" shall be substituted, and to the same section the following clause shall be added, namely :—

"*ninthly*, any person for whose arrest a requisition has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition."

Amendment of section 56, Code of Criminal Procedure, 1904.

8. In section 56 of the said Code, after the words "police station" the words "or any police officer making an investigation under Chapetr XIV" shall be inserted, and to the same section the following shall be added, namely :—

"The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order."

Amendment of section 59, Code of Criminal Procedure, 1904

9. For sub-section (1) of section 59 of the said Code, the following sub-section shall be substituted, namely :

"(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station."

Amendment of section 88, Code of Criminal Procedure, 1904

10. (1) In sub-section (6) of section 88 of the said Code, omit the words "Chapter XXXVI of."

(2) After sub-section (6) of section 88 of the said Code, the following sub-sections shall be inserted, namely :—

"(6*A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6*B*) Claims or objections under sub-section (6*A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6*C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate, such Magistrate may make it over for diposal to any Magistrate of the first or second class as the case may be, subordinate to him.

(6*D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6*A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6*E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment."

(2) In sub-section (7) of the same section, after the words "date of the attachment" the words "and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section" shall be inserted.

Amendment of section 103, Code of Criminal Procedure.

11. (1) To sub-section (1) of section 103 of the said Code, after the words "witness the search," the following shall be added, namely :—

"and may issue an order in writing to them or any of them so to do."

(2) After sub-section (4) of the same section the following sub-section shall be added, namely :—

"(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code as applied to Mysore."

Amendment of section 106, Code of Criminal Procedure.

12. In section 106 of the said Code,—

(*i*) in sub-section (1), for the word "rioting" the following words shall be substituted, namely :—"any offence punishable under Chap. VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153*A* or section 154 thereof, or of" and the words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," shall be omitted; and

(*ii*) in sub-section (3), after the words "Appellate Court" the words "including a Court hearing appeals under section 407" shall be inserted.

Amendment of section 107, Code of Criminal Procedure.

13. (1) In sub-section (1) of section 107 of the said Code, after the words "the Magistrate," where they first occur, the words "if in his opinion there is sufficient ground for proceeding" shall be inserted.

(2) In sub-section (4) of the same section, for the words "this section" the word, figure and brackets "sub-section (3)" shall be substituted, and for the words "until the completion of the inquiry hereinafter prescribed" the words "pending further action by himself under this Chapter" shall be substituted.

Amendment of section 108, Code of Criminal Procedure.

14. In section 108 of the said Code, after the words "in writing" the words "or in any other manner intentionally" shall be inserted; after the words "such Magistrate" the words "if in his opinion there is sufficient ground for proceeding" shall be inserted; for the words "or printed or published" the words "and edited, printed and published" shall be substituted; and after the figures "1894" the words "with reference to any matter contained in such publication" shall be inserted.

Amendment of section 110, Code of Criminal Procedure.

15. In section 110 of the said Code,—

(*i*) in clause (*a*), the word "or," where it first occurs, shall be omitted, and after the word "thief" the words "or forger," shall be inserted; and

(*ii*) for clause (*d*) the following clause shall be substituted, namely :—

"(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code as applied to Mysore, or under section 489*A*, section 489*B*, section 489*C* or section 489*D* of that Code, or":

Amendment of section 117, Code of Criminal Procedure.

16. In section 117 of the said Code,—

(*i*) after sub-section (2) the following sub-section shall be inserted, namely :—

"(3) Pending the completion of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that—

(*a*) no person against whom proceedings are not being taken under section 108, section 109 or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112;"

(*ii*) sub-section (3) shall be re-numbered (4), and after the words "habitual offender" in the said sub-section, the words "or is so desperate and dangerous as to render his being at large without security hazardous to the community" shall be inserted ; and

(*iii*) sub-section (4) shall be re-numbered (5).

Substitution of new section for section 122, Code of Criminal Procedure,

17. For section 122 of the said Code the following section shall be substituted, namely :—

Power to reject sureties.

"122. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him."

Amendment of section 123, Code of Criminal Procedure.

18. (1) After sub-section (3) of section 123 the said Code the following sub-sections shall be inserted, namely :—

"(3*A*) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessons Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

(2) In sub-section (6) of the same section, for the word "may" the following words shall be substituted, namely :—

"shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110."

19. In section 124 of the said Code,— Amendment of section 124, Code of Criminal Procedure.

(*i*) in sub-section (1), the words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," shall be omitted ;

(*ii*) for sub-section (3) the following sub-section shall be substituted namely :—

"(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired ;" and

(*iii*) after sub-section (3) the following sub-sections shall be inserted, namely :—

"(4) The Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor."

20. Sub-section (3) of section 126 of the said Code shall be re-numbered section 126A, and in that section, as re-numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" the following shall be substituted, namely :— Amendment of section 126, Code of Criminal Procedure.

"When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person."

21. For section 133 of the said Code the following section shall be substituted, namely :— Substitution of new section for section 133, Code of Criminal Procedure,

Conditional order for removal of nuisance.

"133. (1) Whenever a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class considers, on receiving a police report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance ; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or

to prevent or stop the erection of, or to remove, repair or support such building, tent or structure ; or

to remove or support such tree ; or

to alter the disposal of such substance ; or

to fence such tank, well or excavation, as the case may be ; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ; [or, if he objects so to do,]

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes."

Amendment of section 135, Code of Criminal Procedure.

22. In section 135 of the said Code, in clause (*a*), after the words "within the time," the words "and in the manner" shall be inserted.

Insertion of new section 139A in the Code of Criminal Procedure.

23. After section 139 of the said Code the following section shall be inserted, namely :—

Procedure where existence of public right is denied.

" 139A. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and, if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court ; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138."

Amendment of section 144, Code of Criminal Procedure.

24. In section 144 of the said Code,—

(*i*) in sub-section (1), after the words " or of any other Magistrate " the words and brackets " (not being a Magistrate of the third class)" shall be inserted, and after the words " under this section " the words " there is sufficient ground for proceeding under this section and " shall be inserted ;

(*ii*) in sub-section (4), after the word " may " the words " either on his own motion or on the application of any person aggrieved " shall be inserted ; and

(*iii*) sub-section (5) shall be re-numbered as sub-section (6), and the following shall be inserted as sub-section (5), namely :—

" (5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order ; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing."

Amendment of section 145, Code of Criminal Procedure.

25. In section 145 of the said Code,—

(*i*) in sub-section (4), for the words " receive the evidence " the words " receive all such evidence as may be " shall be substituted ;

(*ii*) in sub-section (6), after the word " was " the words " or should under the first proviso to sub-section (4) be treated as being " shall be inserted, and the following shall be added after the words "such eviction," namely :—

" and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed."

(*iii*) for sub-section (7) the following sub-section shall be substituted, namely :—

" (7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto." ; and

(*iv*) after sub-section (7) the following sub-sections shall be added, namely :—

" (8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he

may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

Amendment of section 146, Code of Criminal Procedure.

26. (1) To sub-section (1) of section 146 of the said Code the following proviso shall be added, namely :—

"Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute."

(2) In sub-section (2) of the same section, after the words "thinks fit" the words "and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court" shall be inserted, and to the same sub-section the following proviso shall be added, namely :—

"Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged."

Substitution of new section for section 147, Code of Criminal Procedure.

27. For section 147 of the said Code the following section shall be substituted, namely :—

Disputes concerning rights of use of immoveable property, etc.

"147. (1) Whenver any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right;

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction."

Amendment of section 148, Code of Criminal Procedure.

28. In sub-section (3) of section 148 of the said Code, the words "for witnesses, or pleader's fees, or both," shall be omitted, and for the words "All costs so directed to be paid may be recovered as if they were fines" the words "Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable" shall be substituted.

29. In section 157 of the said Code,— Amendment of section 157, Code of Criminal Procedure.

(*i*) in sub-section (1), after the words "one of his subordinate officers" the words "not being below such rank as the Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words "and to take such measures as may be necessary," the words "and, if necessary, to take measures" shall be substituted; and

(*ii*) to sub-section (2), after the words "that sub-section" the words "and, in the case mentioned in clause (*b*), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Government, the fact that he will not investigate the case or cause it to be investigated" shall be added.

30. In sub-section (1) of section 161 of the said Code, after the word "Chapter" the words "or any police officer not below such rank as the Governmet may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted. Amendment of section 161, Code of Criminal Procedure.

31. For sub-section (1) of section 162 of the said Code, the following sub-section shall be substituted, namely :— Amendment of section 162, Code of Criminal Procedure.

"(1) No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made : Statements to police not to be signed; use of such statements in evidence.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused."

32. In section 164 of the said Code,—

(*i*) in sub-section (1), for the words "Any Magistrate may" the words "Any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Government may" shall be substituted; and Amendment of section 164, Code of Criminal Procedure.

(*ii*) in sub-section (3),—

(*a*) for the words "No Magistrate" the following words shall be substituted, namely :—

"A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him and no Magistrate;" and

(*b*) for the words "I believe" the following words shall be substituted, namely :—

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe."

33. In section 165 of the said Code,— Amendment of section 165, Code of Criminal Procedure.

(*i*) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

" (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1) shall, if practicable, conduct the search in person ; "

(*ii*) in sub-section (3), after the words " he may " the words " after recording in writing his reasons for so doing " shall be inserted, and for the words " specifying the document or thing for which search is to be made and the place to be searched " the words " specifying the place to be searched and, so far as possible, the thing for which search is to be made " shall be substituted ;

(*iii*) in sub-section (4), after the words " search warrants " the words " and the general provisions as to searches contained in section 102 and section 103 " shall be inserted ; and

(*iv*) after sub-section (4), the following sub-section shall be added, namely :—

" (5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment of section 166, Code of Criminal Procedure.

34. (1) In sub-section (1) of section 166 of the said Code, after the words " An officer in charge of a police station " the words " or a police officer not being below the rank of Sub-Inspector making an investigation " shall be inserted.

(2) After sub-section (2) of the same section the following sub-sections shall be added, namely :—

"(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a police officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost. "

Amendment of section 167, Code of Criminal Procedure.

35. In section 167 of the said Code,—

(*i*) in sub-section (1),—

(*a*) for the words " it appears that any " the words " any person is arrested and detained in custody, and it appears that the " shall be substituted, and the words " under this Chapter " shall be omitted ;

(*b*) after the words " officer in charge of the police station " the words " or the police officer making the investigation if he is not below the rank of Sub-Inspector " shall be inserted ; and

(*c*) the words and brackets " (if any) " shall be omitted ; and

(*ii*) to sub-section (2), after the words " such jurisdiction ," the following proviso shall be added, namely :—

" Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Government shall authorise detention in the custody of the police."

Amendment of section 169, Code of Criminal Procedure.

36. In section 169 of the said Code, after the words " officer in charge of the police station " the words " or to the police officer making the investigation " shall be inserted.

Amendment of section 173, Code of Criminal Procedure.

37. (1) For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely :—

" (1) Every investigation under this Chapter shall be completed without unnecessary delay, and as soon as it is completed, the officer in charge of the police station shall—

(*a*) forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(*b*) communicate, in such manner as may be prescribed by the Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given."

(2) After sub-section (3) of the same section the following sub-section shall be inserted, namely :—

" (4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial :

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment of section 174, Code of Criminal Procedure.

38. In sub-section (5) of section 174 of the said Code, for the words " or Sub-Divisional Magistrate," the words " Sub-Divisional Magistrate or Magistrate of the first class," shall be substituted

Amendment of section 181, Code of Criminal Procedure.

39. For sub-section (3) of section 181 of the said Code, the following sub-section shall be substituted, namely :—

Theft.

(3) " The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen."

Amendment of section 188, Code of Criminal Procedure.

40. In the proviso to section 188 of the said Code, after the words " Provided that " the words " notwithstanding anything in any of the preceding sections of this Chapter " shall be inserted.

Amendment of section 190, Code of Criminal Procedure.

41. For clause (*b*) of sub-section (1) of section 190 of the said Code, the following clause shall be substituted, namely :—

" (*b*) upon a report in writing of such facts made by any police officer ;"

Amendment of section 193, Code of Criminal Procedure.

42. In sub-section (2) of section 193 of the said Code, the words " in the case of Assistant Sessions Judges " shall be omitted.

Amendment of section 195, Code of Criminal Procedure.

43. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely :—

"(1) No Court shall take cognizance—

Prosecution for contempt of lawful authority of public servants.

(*a*) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate ;

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate ; or

Prosecution for certain offences relating to documents given in evidence.

(*c*) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate."

(2) In sub-section (2) of the same section, for the word "means" the word "includes" shall be substituted.

(3) Sub-sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections (7) and (3) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered, the following sub-section shall be substituted, namely :—

"(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed."

(5) After sub-section (4) of the same section, as re-numbered, the following sub-section shall be inserted, namely :—

"(5) Where a complaint has been made under sub-section (1), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

Insertion of new section 196 A in the Code of Criminal Procedure.

44. After section 196 of the said Code the following section shall be inserted, namely :—

Preliminary inquiry in certain cases

"196A. In the case of any offence in respect of which the provisions of section 196 apply, a District Magistrate may, notwithstanding anything contained in that section or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in section 155, sub-section (3),"

45. In section 197 of the said Code,— Amendment of section 197, Code of Criminal Procedure.

(*i*) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government ; " and

(*ii*) in sub-section (2), after the word "Judge" the word "Magistrate" shall be inserted.

46. To section 198 of the said Code, the following proviso shall be added, namely :— Amendment of section 198, Code of Criminal Procedure.

"Provided that, where the person so aggrieved is a woman who according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf."

47. In section 199 of the said Code, after the word "absence" the words "made with the leave of the Court" shall be inserted, and to the same section, the following proviso shall be added, namely :— Amendment of section 199, Code of Criminal Procedure.

"Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf."

48. In Chapter XV of the said Code, after section 199, the following section shalll be inserted, namely :— Insertion of new section 199 A in the Code of Criminal Procedure.

"199A. When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof." Objection by lawful guardian to complaint by person other than person aggrieved.

49. In section 200 of the said Code, the words and figures "Subject to the provisions of section 476" shall be omitted, and after proviso (*a*) the following proviso shall be inserted, namely :— Amendment of section 200, Code of Criminal Procedure.

"(*aa*) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties."

50. In section 202 of the said Code,— Amendment of section 202, Code of Criminal Procedure.

(*i*) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

"(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint : Postponement for issue of process.

Provided that no such direction shall be made—

(*a*) unless the complainant has been examined on oath under the provisions of section 200, or

(*b*) where the complaint has been made by a Court under the provisions of this Code.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police station, except that he shall not have power to arrest without warrant "; and

(*ii*) after sub-section (2) the following sub-section shall be added, namely :—

" (3) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath."

Amendment of section 203, Code of Criminal Procedure.

51. In section 203 of the said Code, for the words " after examining the complainant and considering the result of the investigation (if any) made under section 202 " the words " after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202 " shall be substituted.

Amendment of section 206, Code of Criminal Procedure.

52. In section 206 of the said Code, after the words " or any Magistrate " the words and brackets " (not being a Magistrate of the third class) " shall be inserted.

Amendment of section 210, Code of Criminal Procedure.

53. In sub-section (2) of section 210 of the said Code, for the words " the charge " the words " such charge " shall be substituted.

Amendment of section 215, Code of Criminal Procedure.

54. In section 215 of the said Code, the words and figures " or by a Court of Session under section 477 " shall be omitted.

Amendment of section 219, Code of Criminal Procedure.

55. (1) In sub-section (1) of section 219 of the said Code, for the words " The Magistrate " the words " The Committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206 " shall be substituted.

(2) In sub-section (2) of the same section, for the words " if the accused so require, be given to him free of cost." the words " be given to the accused free of cost " shall be substituted.

Amendment of section 221, Code of Criminal Procedure.

56. In sub-section (7) of section 221 of the said Code,—

(*i*) for the words " has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely :—

" having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence," and

(*ii*) for the words " is omitted " the words " has been omitted " shall be substituted.

Amendment of section 234, Code of Criminal Procedure.

57. In section 234 of the said Code,—

(*i*) in sub-section (1), after the words " such offences " the words " whether in respect of the same person or not " shall be inserted; and

(*ii*) to sub-section (2) the following proviso shall be added, namely :—

" Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence."

58. Sub-section (2) of section 237 of the said Code shall be omitted. Amendment of section 237, Code of Criminal Procedure.

59. After sub-section (2) of section 238 of the said Code, the following sub-section shall be inserted, namely :— Amendment of section 238, Code of Criminal Procedure.

"(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged."

60. For section 239 of the said Code, the following section shall be substituted, namely :— Substitution of new section for section 239, Code of Criminal Procedure.

"239. The following persons may be charged and tried together, namely :— What persons may be charged jointly.

(a) persons accused of the same offence committed in the course of the same transaction ;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ;

(c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months ;

(d) persons accused of different offences committed in the course of the same transaction ;

(e) persons accused of an offence which includes theft, extortion or criminal misappropriation, and persons accused of receiving or retaining or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first named persons, or of abetment of or attempting to commit any such last-named offence ;

(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and

(g) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence ;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges."

61. In section 243 of the said Code, for the words "shall convict" the words "may convict" shall be substituted. Amendment of section 243, Code of Criminal Procedure.

62. In section 244 of the said Code,— Amendment of section 244, Code of Criminal Procedure.

(i) in sub-section (1), before the words "If the accused" the words "If the Magistrate does not convict the accused under the preceding section or" shall be inserted, and to the same sub-section the following proviso shall be added, namely :—

"Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court ;" and

(ii) in sub-section (2), for the words "process to compel the attendance of any witness or the production of" the words "a summons to any witness directing him to attend or to produce" shall be substituted.

63. For sub-section (2) of section 245 of the said Code, the following shall be substituted, namely :— Amendment of section 245, Code of Criminal Procedure.

"(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law."

Amendment of section 250, Code of Criminal Procedure. False, frivolous or vexatious accusations.

64. In section 250 of the said Code,—

(*i*) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

"(1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2*A*) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2*B*) When any person is imprisoned under the sub-section (2*A*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(2*C*) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him :

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any susequent civil suit relating to the same matter ; "

(*ii*) in sub-section (3), for the word and figure "sub-section (1)" the word and figure "sub-section (2)" shall be substituted, and for the words "to an accused person" the following shall be substituted, namely :—

"or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees ; "

(*iii*) to sub-section (4) after the words "appeal has been decided" the following shall be added, namely :—

"and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order." ; and

(*iv*) sub-section (5) shall be omitted.

Amendment of section 252, Code of Criminal Procedure.

65. To sub-section (1) of section 252 of the said Code the following proviso shall be added, namely :—

"Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court."

Insertion of new section 255A in the Code of Criminal Procedure. Procedure in case of previous convictions.

66. After section 255 of the said Code the following section shall be inserted, namely :—

"255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon."

67. In sub-section (1) of section 256 of the said Code, after the words " to state " the words " at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith " shall be inserted. Amendment of section 256, Code of Criminal Procedure.

68. For sub-section (2) of section 258 of the said Code, the following sub-section shall be substituted, namely :— Amendment of section 258, Code of Criminal Procedure.

" (2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law."

69. In section 259 of the said Code, after the words " and the offence may be lawfully compounded " the words " or is not a cognizable offence " shall be inserted. Amendment of section 259, Code of Criminal Procedure.

70. In section 261 of the said Code,— Amendment of section 261, Code of Criminal Procedure.

(*i*) in clause (*a*), for the word and figures " and 487," the figures and word " 447 and 504 " shall be substituted ; and

(*ii*) to clause (*b*), after the words " one month " the words " with or without fine " shall be added.

71. In section 288 of the said Code,— Amendment of section 288, Code of Criminal Procedure.

(*i*) for the words " duly taken in the presence of the accused before the committing Magistrate " words " duly recorded in the presence of the accused under Chapter XVIII " shall be substituted ; and

(*ii*) after the words " as evidence in the case," the words " for all purposes subject to the provisions of the Indian Evidence Act, 1872," shall be added.

72. For section 292 of the said Code, the following section shall be substituted, namely :— Substitution of new section for section 292, Code of Criminal Procedure,

" 292. The prosecutor shall be entitled to reply— Prosecutor's right of reply

(*a*) if the accused or any of the accused adduces any oral evidence ; or

(*b*) [redacted]sion of the Court, on a point of law ; or

[redacted]n of the Court, when any document which doe[redacted] produced by any accused person after he ente[redacted]

Provided [redacted]ferred to in clause (*c*), the reply shall

Amendment of section 309, Code of Criminal Procedure.

75. In section 309 of the said Code,—

(*i*) in sub-section (1), after the word "orally" the following shall be inserted, namely :—

"on all the charges on which the accused has been tried," and after the words "such opinion" the following shall be inserted, namely :—

"and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded"; and

(*ii*) in sub-section (3), after the word "shall" the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted.

Substitution of new section for section 310, Code of Criminal Procedure.

76. For section 310 of the said Code the following section shall be substituted, namely :—

Procedure in case of previous conviction

"310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(*a*) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(*i*) he has been convicted of the subsequent offence, or

(*ii*) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

(*b*) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

Amendment of section 337, Code of Criminal Procedure.

77. In section 337 of the said Code,—

(*i*) for sub-section (1) the following [illegible] substituted, namely :—

"(1) In the case of any offence t[illegible] Court of Session, or any offence punishable [illegible] which may extend to ten years, or any offence [illegible] tion 211 of the

(*ii*) in sub-section (2), for the words "the case" the words "the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any," shall be substituted;

(*iii*) after sub-section (2) the following sub-section shall be inserted, namely :—

"(2*A*) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session;"

(*iv*) in sub-section (3), for the words "if not on bail" the words "unless he is already on bail" shall be substituted, and the words "by the Court of Session," shall be omitted; and

(*v*) sub-section (4) shall be omitted.

Amendment of section 339, Code of Criminal Procedure.

78. (1) In sub-section (1) of section 339 of the said Code, after the words and figures "section 338 and" the words "the Public Prosecutor certifies that in his opinion" shall be inserted; for the words "he may be" the words "such person may be" shall be substituted; and to the said sub-section the following proviso shall be added, namely :—

"Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with."

(2) In sub-section (2) of the same section, for the words "when the pardon has been forfeited under this section" the words "at such trial" shall be substituted.

Insertion of new section 339A in the Code of Criminal Procedure.

79. After section 339 of the said Code the following section shall be inserted, namely :—

Procedure in trial of persons under section 339.

"339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(*a*) if the Court is a Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (1), and

(*b*) if the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding any thing contained in this Code, pass judgment of acquittal."

Substitution of new section for section 340, Code of Criminal Procedure.

80. For section 340 of the said Code the following section shall be substituted, namely :—

Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

"340. (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

Amendment of section 345, Code of Criminal Procedure.

81. In section 345 of the said Code,—

(*i*) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section,

after the entry relating to criminal intimidation, the following entry shall be added, namely :—

Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.

(*ii*) for sub-section (2) the following sub-section shall be substituted, namely :—

(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person mentioned in the third column of that table :—

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Do
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Do
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Do
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	Do
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret ..	346	Do
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property ..	403	The owner of the property misappropriated.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Do
Cheating by personation	419	Do
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Do
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark ..	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Do
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.

(*iii*) in sub-section (4), for the words "a minor" the words "under the age of eighteen years or is" shall be substituted, and after the word "may" the words "with the permission of the Court" shall be inserted ;

(*iv*) after sub-section (5) the following sub-section shall be inserted, namely :—

"(5*A*) The Chief Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section ;" and

(v) to sub-section (6), after the word "accused" the words "with whom the offence has been compounded" shall be added.

Amendment of section 347, Code of Criminal Procedure.

82. In sub-section (1) of section 347 of the said Code, the words "stop further proceedings and" shall be omitted.

Amendment of section 348, Code of Criminal Procedure.

83. (1) Section 348 of the said Code shall be re-numbered 348 (1), and in the said section, as re-numbered, after the word "shall" the words "if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused" shall be inserted, and for the words "before whom the proceedings are pending" the words "is competent to try the case and" shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words "the District Magistrate" the words "any Magistrate in the district" shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely :—

"(2) When any person is committed to the Court of Session under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209."

Amendment of section 349, Code of Criminal Procedure.

84. After sub-section (1) of section 349, the following sub-section shall be inserted, namely :—

"(1*A*) When more accused than one are being tried together and the Magistrate considers it necessry to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate."

Amendment of section 350, Code of Criminal Procedure.

85. To sub-section (2) of section 350 of the said Code, after the figures "346," the words "or in which proceedings have been submitted to a superior Magistrate under section 349" shall be added, and after the same sub-section the following, sub-section shall be added, namely :—

"(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of the sub-section (1)."

Insertion of new section 350 A in the Code of Criminal Procedure.

86. After section 350 of the said Code, the following section shall be inserted, namely :—

Changes in constitution of Benches.

"350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Amendment of section 356, Code of Criminal Procedure.

87. In section 356 of the said Code, after sub-section (2), the following sub-section shall be inserted, namely :—

"(2*A*) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record."

Amendment of section 367, Code of Criminal Procedure.

88. In section 367 of the said Code,—

(i) in sub-section (1) after the words "presiding officer of the Court" the words "or from the dictation of such presiding officer" shall be inserted;

(*ii*) to the same sub-section the following words shall be added namely :—

" and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him ;" and

(*iii*) after sub-section (5) the following sub-section shall be added, namely :—

" (6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment."

Amendment of section 369, Code of Criminal Procedure.

89. In section 369 of the said Code, for the words " No Court other than the Chief Court" the words "Save as otherwise provided by this Code or by any other law for the time being in force, no Court " shall be substituted ; and the words and figures " as provided in sections 395 and 484 or " shall be omitted.

Substitution of new section for section 386, Code of Criminal Procedure.

90. For section 386 of the said Code the following section shall be substituted, namely :—

Warrant for levy of fine.

" 386. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(*a*) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender ;

(*b*) issue a warrant to the Deputy Commissioner of the District authorising him to realise the amount by execution according to the civil process against the moveable or immoveable property, or both, of the defaulter :

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(2) The Government may make rules regulating the manner in which warrants under sub-section (1), clause (*a*), are to be executed, and for summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Courts issue a warrant to the Deputy Commissioner under sub-section (1), clause (*b*), such warrant shall be deemed to be a decree, and the Deputy Commissioner to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly :

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

Amendment of section 387, Code of Criminal Procedure.

91. In section 387 of the said Code, for the words " Such warrant" the words " A warrant issued under section 386, sub-section (1), clause (*a*), by any Court " shall be substituted, and for the word " distress " the word " attachment " shall be substituted.

92. For section 388 of the said Code, the following section shall be substituted, namely :—

Substitution of new section 388.

" 388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before the date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(*b*) Suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond with or without sureties, as the Court thinks fit, conditioned for his appearance before the court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and, if the amount of the fine or of any instalment, as the case may be, is not realized on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith: and if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment."

Amendment of section 395, Code of Criminal Procedure.

93. In section 395 of the said Code,—

(*i*) in sub-section (1), after the words "twelve months" the words "or to a fine not exceeding five hundred rupees" shall be inserted; and

(*ii*) in sub-section (2), after the words "for a term" the words "or a fine of an amount" shall be inserted.

Amendment of section 397, Code of Criminal Procedure.

94. In section 397 of the said Code,—

(*i*) after the words "to which he has been previously sentenced" the word "unless the Court directs that the subsequent sentence shall run con currently with such previous sentence" shall be inserted; and

(ii) after the proviso the following further proviso shall be added, namely:—

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

Amendment of section 401, Code of Criminal Procedure.

95. In section 401 of the said Code,—

(*i*) to sub-section (2), after the words "together with his reasons for such opinion" the following words shall be added, namely:—

"and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists;"

(*ii*) after sub-section (4) the following sub-section shall be inserted, namely:—

"(4*A*) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property;"

(*iii*) after sub-section (5) the following sub-section shall be inserted, namely:—

"(5*A*) Where a conditional pardon is granted by His Highness the Maharaja, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly."

Amendment of section 402, Code of Criminal Procedure.

96. Section 402 of the said Code shall be re-numbered section 402 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

"(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code."

Substitution of new section for section 406, Code of Criminal Procedure.

97. For section 406 of the said Code the following section shall be substituted, namely:—

Appeal from order requiring

"406. Any person who has been ordered under section 118 to

security for keeping the peace or for good behaviour.

give security for keeping the peace or for good behaviour may appeal against such order to the Court of Session.

Provided that, the Government may, by notification in the official Gazette, direct that in any district specified in the notification, appeals from such orders made by a Magistrate other than the District Magistrate shall lie to the District Magistrate and not to the Court of Session.

Provided, further, that nothing in this section shall apply to persons, the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

Insertion of new section 406 A in the Code of Criminal Procedure.

98. After section 406 of the said Code, the following section shall be inserted, namely :—

Appeal from order refusing to accept or rejecting a surety.

"406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

(*a*) if made by the District Magistrate, to the Court of Session; or

(*b*) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

Amendment of section 407, Code of Criminal Procedure.

99. In sub-section (1) of section 407 of the said Code, after the figures "349," the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted.

Amendment of section 408, Code of Criminal Procedure.

100. In section 408 of the said Code,—

(*i*) after the figures "349" the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted; and

(*ii*) in clause (*a*) of the proviso, after the word "appeal" the following words shall be inserted namely :—

"of all or any of the accused convicted at such trial"

Amendment of section 409, Code of Criminal Procedure.

101. To section 409 of the said Code, the following proviso shall be added, namely :—

"Provided that an Additional Sessions Judge shall hear only such appeals as the Government may, by general or special order, direct or as the Sessions Judge of the Division may make over to him."

Insertion of new section 415 A in the Code of Criminal Procedure.

102. After section 415 of the said Code, the following section shall be inserted, namely :—

Special right of appeal in certain cases

"415A. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal."

Amendment of section 418, Code of Criminal Procedure.

103. Section 418 of the said Code shall be re-numbered section 418 (1), and, to the said section as re-numbered, the following sub-section shall be added namely :—

"(2) Notwithstanding anything contained in sub-section (1) or in section 423, sub-section (2), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law."

Amendment of section 435, Code of Criminal Procedure.

104. In section 435 of the said Code,—

(*i*) to sub-section (1), after the words "proceedings of such inferior Courts" the following words shall be added, namely :—

"and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record";

(*ii*) after the same sub-section the following *Explanation* shall be added, namely :—

"*Explanation.*—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437;" and

(*iii*) sub-section (3) shall be omitted.

Transposition of sections 436 and 437 and amendment of section 437, Code of Criminal Procedure.

105. Sections 436 and 437 of the said Code shall be re-numbered 437 and 436, respectively, and, in the latter section, as re-numbered,—

(*a*) for the words "accused person" the words "person accused of an offence" shall be substituted; and

(*b*) after the word "discharged", the following proviso shall be added, namely :—

"Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of shewing cause why such direction should not be made."

Amendment of section 438, Code of Criminal Procedure.

106. In sub-section (2) of section 438 of the said Code, for the words "by the Sessions Judge" the words "by or under any general or special order of the Sessions Judge" shall be substituted.

Amendment of section 439, Code of Criminal Procedure.

107. In sub-section (1) of section 439 of the said Code, the figures "195" shall be omitted, and after sub-section (5) of the same section the following sub-section shall be added, namely :—

"(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction."

Amendment of section 464, Code of Criminal Procedure.

108. In section 464 of the said Code,—

(*i*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466;" and

(*ii*) in sub-section (2), after the word "he" the words "shall record a finding to that effect and" shall be inserted.

Amendment of section 465, Code of Criminal Procedure.

109. In sub-section (1) of section 465 of the said Code, for the words "and if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed," the following words shall be substituted, namely :—

"and if the jury or Court as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury, if any, shall be discharged."

Amendment of section 466, Code of Criminal Procedure.

110. In section 466 of the said Code—

(*i*) in sub-section (1), for the words "if the case is one in which bail may be taken," the words "whether the case is one in which bail may be taken or not" shall be substituted; and

(*ii*) for sub-section (2) the following sub-section shall be substituted, namely :—

Custody of lunatic.

"(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action to the Government.

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Government may have made under the Mysore Lunacy Regulation, 1916.

Amendment of section 468, Code of Criminal Procedure.

111. In sub-section (2) of section 468 of the said Code, the word "person" shall be omitted, and the following words shall be added after the words "as the case may be," namely :—

"and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466."

Amendment of section 471, Code of Criminal Procedure.

112. (1) In sub-section (1) of section 471 of the said Code,—,

(*i*) for the words "such judgment" the words "the finding" shall be substituted;

(*ii*) for the word "kept." the word "detained" shall be substituted; and

(*iii*) for the words "and shall report the case for the order of Government" the words "and shall report the action taken to the Government" shall be substituted.

(2) After sub-section (1) of the same section the following proviso shall be inserted, namely :—

"Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Government may have made under the Mysore Lunacy Regulation, 1916."

(3) Sub-section (4) of the same section shall be re-numbered (2).

Amendment of section 473, Code of Criminal Procedure.

113. In section 473 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "such Inspector-General or visitors" the words "in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them" shall be substituted.

Amendment of section 474, Code of Criminal Procedure.

114. In section 474 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "discharged" (wherever it occurs) and "discharge" the words "released" and "release", respectively, shall be substituted.

Substitution of new section for section 475, Code of Criminal Procedure. Delivery of lunatic to care of relative or friend.

115. For section 475 of the said Code the following section shall be substituted, namely :—

"475. (1) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Government may, upon the application of such relative or friend and on his giving security to the satisfaction of the Government that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the Government may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offience the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

Substitution of new sections for section 476, Code of Criminal Procedure. Procedure in cases mentioned in section 195.

116. For section 476 of the said Code the following sections shall be substituted, namely :—

"476. (1) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (1), clause (*b*) or clause (*c*), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such

preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable, may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

"476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and, if it makes such complaint, the provisions of that section shall apply accordingly."

Repeal of section 477, Code of Criminal Procedure.

117. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal Procedure.

118. In section 487 of the said Code, the figures "477" shall be omitted.

Amendment of section 488, Code of Criminal Procedure.

119. In section 488 of the said Code,—

(*i*) in sub-section (1), for the word "fifty" the words "one hundred" shall be substituted;

(*ii*) in sub-section (3), for the words "wilfully neglects" the words "fails without sufficient cause" shall be substituted;

(*iii*) to the same sub-section the following proviso shall be added namely :—

"Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it becomes due;"

(*iv*) sub-section (7) shall be omitted; and

(*v*) sub-sections (8) and (9) shall be re-numbered (7) and (8), respectively, and, in the last named sub-section, for the words "The accused may be proceeded against" the words "Proceedings under this section may be taken against any person" shall be substituted.

Amendment of section 489, Code of Criminal Procedure.

120. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and, in that sub-section, as re-numbered, for the word "fifty" the words "one hundred" shall be substituted.

(2) To the same section the following sub-section shall be added, namely :—

"(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

Amendment of section 492, Code of Criminal Procedure.

121. (1) In sub-section (2) of section 492 of the said Code, the words "In any case committed for trial to the Court of Session" shall be omitted, and for the words "such case" the words "any case" shall be substituted.

(2) In the same sub-section, for the words "the rank of Assistant Superintendent" the words "such rank as the Government may prescribe in this behalf" shall be substituted.

Amendment of section 494, Code of Criminal Procedure.

122. In section 494 of the said Code,—

(*i*) the words "appointed by the Government" shall be omitted ;

(*ii*) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted ;

(*iii*) after the word "discharged" in clause (*a*), the words "in respect of such offence or offences" shall be inserted ; and

(*iv*) after the word "acquitted" in clause (b), the words "in respect of such offence or offences" shall be added.

Amendment of section 496, Code of Criminal Procedure.

123. To section 496 of the said Code the following proviso shall be added, namely :—

"Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4), or section 117, sub-section (3)."

Amendment of section 497, Code of Criminal Procedure.

124. In section 497 of the said Code,—

(*i*) in sub-section (1), for the words "the offence of which he is accused" the words "an offence punishable with death or transportation for life" shall be substituted and to the same sub-section the following proviso shall be added, namely :—

"Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail ;"

(*ii*) in sub-section (2), for the words "such offence" the words "non-bailable offence" shall be substituted ;

(*iii*) after sub-section (2) the following sub-sections shall be inserted, namely :—

"(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered." ; and

(*iv*) for sub-section (3) the following sub-section shall be substituted, namely :—

"(5) A Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody."

Amendment of section 514, Code of Criminal Procedure

125. In section 514 of the said Code,—

(*i*) in sub-section (3), for the word "distress" the word "attachment" shall be substituted ; and

(*ii*) in sub-section (6), the words "but the party who gave the bond may be required to find a new surety" shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely :—

"(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the

commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved."

Insertion of new sections 514 A and 514 B in the Code of Criminal Procedure.

126. After section 514 of the said Code the following sections shall be inserted, namely :—

Procedure in case of insolvency or death of surety or when a bond is forfeited.

"514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Bond required from a minor.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only."

Insertion of new section 516 A in the Code of Criminal Procedure. Order for custody and disposal of property pending trial in certain cases.

127. In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely :—

"516A. When any property regarding which any offence appears to have been committed or which appears to have been used for the commission of any offence is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of ".

Amendment of section 517, Code of Criminal Procedure.

128. In section 517 of the said Code,—

(*i*) in sub-section (1), after the word " disposal " the words " by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise" shall be inserted ;

(*ii*) for sub-section (3) the following sub-section shall be substituted, namely :—

" (3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of " ; and

(*iii*) after sub-section (3) the following sub-section shall be inserted, namely :—

" (4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal."

Amendment of section 522, Code of Criminal Procedure

129. In section 522 of the said Code,—

(*i*) in sub-section (1), after the word " force " where it first occurs, the words " or show of force or by criminal intimidation " shall be inserted, and after the word " force," where it occurs for the second time, the words " or show of force or criminal intimidation " shall be inserted, and for the words " such person " the words " the person dispossessed " shall be substituted ;

(*ii*) in the same sub-section, after the words " thinks fit " the words " when convicting such person or at any time within one month from the date of the conviction " shall be inserted ; and

(*iii*) after sub-section (2) the following sub-section shall be added, namely :—

" (3) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

Amendment of section 525, Code of Criminal Procedure.

130. In section 525 of the said Code, for the words " or the Magistrate " the words " or if the Magistrate " shall be substituted and after the word " owner " the words " or that the value of such property is less than ten rupees " shall be inserted.

Amendment of section 526, Code of Criminal Procedure.

131. In section 526 of the said Code,—

(*i*) in sub-clauses (*ii*) and (*iii*) of sub-section (1), the word " criminal " before the word " case," and in sub-clause (*ii*), the word " such " before the word " cases," shall be omitted ;

(*ii*) in sub-section (5), for the word " convicted " the words " so ordered " shall be substituted, and for the words " the costs of the prosecutor " the words " any amount which the Chief Court has power under this section to award by way of costs to the person opposing the application " shall be substituted ;

(*iii*) after sub-section (6) the following sub-section shall be inserted namely :—

" (6*A*) Where any application for the exercise of the power conferred by this section is dismissed, the Chief Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expense reasonably incurred by such person in consequence of the application ; " and

(*iv*) for sub-section (8) the following sub-sections shall be substituted, namely :—

" (8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it."

Amendment of section 528, Code of Criminal Procedure.

132. In section 528 of the said Code,—

(*i*) sub-sections (1), (2), and (3) shall be re-numbered (2), (3), and (5), respectively, and the following shall be inserted as sub-section (1), namely :—

Sessions Judge may withdraw cases from Assistant Sessions Judge.

" (1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him ;"

(*ii*) after sub-section (3), as re-numbered, the following sub-section shall be inserted, namely :—

" (4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself. "

Amendment of section 537, Code of Criminal Procedure.

133. In section 537 of the said Code,—

(*i*) clause (*b*) shall be omitted ;

(*ii*) the word " want," where it occurs for the second time, shall be omitted ; and

(*iii*) the *Illustration* shall be omitted.

Amendment of section 538, Code of Criminal Procedure.

134. In section 538 of the said Code, for the word " distress," wherever it occurs, the word " attachment " shall be substituted.

135. Before section 540 of the said Code the following sections shall be inserted, namely :— Insertion of new sections 539 A and 539 B in the Code of Criminal Procedure.

"538A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given. Affidavit in proof of conduct of public servant.

An affidavit to be used before any Court under this section may be sworn or affirmed, before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

538B. (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection. Local inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section, unless such jury or assessors are also allowed a view under section 293."

136. After section 540 of the said Code, the following section shall be inserted, namely :— Insertion of new section 540A in the Code of Criminal Procedure.

"540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may at any subsequent stage of the proceedings, direct the personal attendance of such accused. Provision for inquiries and trial being held in the absence of accused in certain cases.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

137. In section 545 of the said Code,— Amendment of section 545, Code of Criminal Procedure.

(*i*) for clause (*b*) of sub-section (1) the following clause shall be substituted, namely :—

"(*b*) in the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court ;" and

(*ii*) to sub-section (1) the following clause shall be added, namely :—

"(*c*) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of stolen property knowing or having reason to

believe the same to be stolen, in compensating any *bonâ fide* purchase of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

Insertion of new section 546 A in the Code of Criminal Procedure.

138. After section 546 of the said Code the following section shall be inserted, namely :—

Order of payment of certain fees paid by complainant in non-cognizable cases.

"546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

(*a*) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and any further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an Appellate Court, or by the Chief Court, when exercising its powers of revision."

Amendment of section 547, Code of Criminal Procedure.

139. In section 547 of the said Code, after the word "Code" the words "and the method of recovery of which is not otherwise expressly provided for" shall be inserted.

Substitution of new section for section 559, Code of Criminal Procedure.

140. For section 559 of the said Code the following section shall be substituted, namely :—

Provision for powers of Judges and Magistrates being exercised by their successors in office.

"559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his sucessor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the District Magistrate shall determine by order in writing the Magistrate who shall, for the prupose of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge."

Insertion of new section 561 A in the Code of Criminal Procedure.

141. After section 561 of the said Code, the following section shall be inserted, namely :—

Saving of inherent power of Chief Court

"561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the Chief Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Substitution of new section for section 562, Code of Criminal Procedure.

142. For section 562 of the said Code, the following section shall be substituted, namely :—

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

"562. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is

expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Conviction and release with admonition.

(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(2) An order under this section may be made by any Appellate Court or by the Chief Court when exercising its power of revision.

(3) When an order has been made under this section in respect of any offender, the Chief Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the Chief Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(4) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

Substitution of new section for section 565, Code of Criminal Procedure.

143. For section 565 of the said Code the following section shall be substituted, namely :—

Order for notifying address of previously convicted offender.

"565 (1) When any person having been convicted —

(a) by a Court in Mysore of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489 (1) of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years, or upwards, or

(b) by a Court or Tribunal in British India or any other territory to which the Indian Penal Code may have been extended by the Governor-General of India in Council or of any offence which would, if committed in Mysore, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by the Chief Court, Court of Session, District Magistrate, Sub-Divisional Magistrate, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by the Chief Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed, within the meaning of section 176 of the Indian Penal Code, to have omitted to give notice required for the purpose of preventing the commission of an offence.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated."

Amendment of Schedule II, Code of Criminal Procedure.

144. In Schedule II to the said Code,—

(1) in column 1, the figures " 405 " occurring between the figures " 404 " and " 406 " shall be omitted ;

(2) for the first entry in column 3, against section 213, the words " may arrest without warrant " shall be substituted ;

(3) for the entry in column 3, against section 214, the words " shall not arrest without warrant " shall be substituted ;

(4) for the entry in column 3, against section 215, the words " May arrest without warrant " shall be substituted ;

(5) for the entry in column 3, against section 374, the words " Shall not arrest without warrant " shall be substituted;

(6) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries " If the offence be not committed " in column 2, the word " Bailable " shall be substituted ; and for the entry in column 5 opposite the entry " 120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed " the words " According as the offence concealed is bailable or not " shall be substituted ;

(7) for the entry in column 5, against section 363, the word " Bailable " shall be substituted ; and, for the entry in the same column against section 364, the words " Not bailable " shall be substituted ;

(8) for the entry in column 5, against section 477A, the word " Bailable " shall be substituted ;

(9) for the entry in clolumn 5, against section 495, the word " Bailable " shall be substituted ;

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words " Compoundable when permission is given, by the Court before which the prosecution is pending " shall be substituted ; and, for each of the entries in the same column, against sections 344 and 347, the words " Not compoundable " shall be substituted ;

(11) for the entry in column 6, against section 403, the words " Compoundable when permission is given by the Court before which the prosecution is pending " shall be substituted ;

(12) for each of the entries in column 6, against sections 417 418, 419 and 420, the words " Compoundable when permission is given by the Court before which the prosecution is pending " shall be substituted ;

(13) for the entry in column 6, against section 430, the words " Compoundable when permission is given by the Court before which the prosecution is pending " shall be substituted ; and for the entry in the same column, against section 431, the words " Not compoundable " shall be substituted ;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely :—"Compoundable when

permission is given by the Court before which the prosecution is pending " ; and, for the second entry in that column, against the same section the words " Not compoundable " shall be substituted ;

(15) for the entry in column 6, against section 482, the words " Compoundable when permission is given by the Court before which the prosecution is pending " shall be substituted ; and, for the entry in the same column, against section 484, the words " Not compoundable " shall be substituted ;

(16) for the entry in column 6, against section 486, the words " Compoundable with permission of the Court before which the prosecution is pending " shall be substituted ; and, for the entry in the same column, against section 487 the words " Not compoundable " shall be substituted ;

(17) for the entry in column 6, against section 494, the words " Compoundable with permission of the Court before which the prosecution is pending " shall be substituted ; and, for the entry in the same column, against section 495, the words " Not compoundable " shall be substituted ;

(18) for the entry in column 6, against section 508, the word " Compoundable " shall be substituted ;

(19) for the entry in column 6, against section 509, the words " Compoundable when permission is given by the Court before which the prosecution is pending " shall be substituted ; and, for the entry in the same column, against section 510, the words " Not compoundable " shall be substituted ;

(20) in the entry in column 7, against section 121, for the words " forfeiture of property " the word " fine " shall be substituted ;

(21) in the entry in column 7, against section 121A, after the word " years " the words " and fine " shall be inserted ;

(22) in the entry in column 7, against section 122, for the words " forfeiture of property " the word " fine " shall be substituted ;

(23) for the entry in column 7, against section 477A, the words " Imprisonment of either description for seven years, or fine, or both shall be substituted ;

(24) for the entry in column 8, against section 294, the words " Any Magistrate " shall be substituted ;

(25) for the entry in column 8, against section 317, the words " Court of Session, or Magistrate of the first class " shall be substituted ;

(26) in the entry in column 8, against section 318, the words " or second " shall be omitted ;

(27) for the entry in column 8, against section 327, the words Court of Session, or Magistrate of the first class " shall be substituted ; and, for the entry in the same column, against section 328, the words " Court of Session " shall be substituted ;

(28) for the entry in column 8, against section 368, the words " Court of Session, or Magistrate of the first class " shall be substituted;

(29) for the entry in column 8, against section 477A, the words ' Court of Session, or Magistrate of the first class " shall be substituted ;

(30) for the entry in column 8, against section 494, the words " Court of Session, or Magistrate of the first class " shall be substituted ; and, for the entry in the same column, against section 495, the words " Court of Session " shall be substituted.

Amendment of Schedule III, Code of Criminal Procedure.

145. In Schedule III to the said Code,—

(*i*) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word " property " the words " and to dispose of claims to attached property " shall be inserted ;

(2) item (13) shall be omitted ;

(3) in item (14), after the word " detention " the words " not being detention in the custody of the police " shall be inserted ;

(4) the following item shall be inserted between items (14) and (15), namely :—

" (14a) Power to postpone issue of process and inquire into case himself, section 202 ; "

(5) to item (18) the words, figures and letter " and to require fresh security, section 514A " shall be added ;

(6) After item (18) the following item shall be inserted, namely :—

" (18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A ; "

(7) in item (19), the word " perishable " shall be omitted ;

(8) after item (19) the following items shall be added, namely :—

" (20) Power to require affidavit in support of application, section 538A ;

(21) Power to make local inspection, section 538B ; "

(*ii*) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(1) for item (3) the following item shall be substituted, namely :—

" (3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202 ; "

(2) item (4) shall be omitted ;

(*iii*) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures " 126 " the figures and letter " 126A " shall be substituted ;

(2) between items (6) and (7) the following item shall be inserted namely :—

" (6a) Power to make orders as to local nuisances, section 133 ; "

(3) betwen items (7) and (8), the following items shall be inserted, namely :—

" (7a) Power to record statements and confessions during a police investigation, section 164 ;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;

(7*b*) Power to hold inquests, section 174 ; "

(4) After item (9) the following item shall be inserted, namely :

" (9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337 ; ".

(5) after item (12) the following items shall be inserted, namely:—

" (12a) Power to require fresh security, section 514A ;

(12b) Power to re-call case made over by him to another Magistrate, section 528 (4) ; "

(6) after item (13) the following item shall be added namely :—

" (14) Power to order released convicts to notify residence, section 565 ; "

(*iv*) in Head IV (*Ordinary Powers of a Sub-Divisional Magistrate*)

(1) in the head note, after the words " Sub-Divisional Magistrate. " the words " appointed under section 13 " shall be inserted ;

(2) the following items shall be omitted, namely :—

" (4) Power to make orders as to local nuisances, section 133 ; "

" (10) Power to hold inquest, section 174 ; "

" (20) Power to order released convicts to notify residence, section 565 ; "

(*v*) in Head V (*Ordinary powers of a District Magistrate*)—

(1) after item (6) the following item shall be inserted, namely :—

"(6a) Power to order preliminary investigation by police officer not below the rank of Inspector in certain cases, section 196A ;"

(2) after item (7) the following item shall be inserted, namely :—

"(7a) Power to tender pardon to accomplice at any stage of a case, section 337 ;"

(4) in item (9), after the word " for " the words " keeping the peace or " shall be inserted ;

(5) after item (9) the following item shall be inserted, namely :—

"(9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406 A;"

(6) in item (12), for the figures " 436 " the figures " 437," and, in item (13), for the figures " 437 " the figures " 436 " shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

Amendment of Schedule IV, Code of Criminal Procedure.

146. In Schedule IV to the said Code,—

(*i*) from the list of powers with which a Magistrate of the first class may be invested by the Government, the following shall be omitted, namely :—

"(3) Power to make orders as to local nuisances, section 133 ;"

"(6) Power to hold inquests, section 174 ;"

"(14) Power to order released convicts to notify residence, section 565 ;".

(*ii*) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, " Power to hold inquests, section 174, " shall be omitted ;

(*iii*) in the list of powers with which a Magistrate of the second class may be invested by the Government—

between items (3) and (4) the following items shall be inserted, namely :—

"(3a) Power to record statements and confessions during a police investigation, section 164 ;

(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;"

(*iv*) from the list of powers with which a Magistrate of the third class may be invested by the Government, the following shall be omitted, namely :—

"(2) Power to make orders under section 144 ;"

"(6) Power to commit for trial, section 206 ;"

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely :—

"(2) Power to make orders under section 144."

Amendment of Schedule V, Code of Criminal Procedure.

147. In Schedule V to the said Code,—

(*i*) in Form VI—

(*a*) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words " Proclamation was duly issued " the words " Proclamation has been or is being duly issued " shall be substituted, and the words " and he has failed to appear " shall be omitted ;

(*b*) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words " Proclamation was duly issued " the words " Proclamation has been or is being duly issued " shall be substituted ;

(*c*) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER for the words " Proclamation was duly issued " the words " proclamation has been or is being duly issued " shall be substituted, and the words " but he has not appeared " shall be omitted ;

(*ii*) in Forms X and XI, after the words " for the term of ," wherever they occur, the words " or until the completion of the inquiry in the matter of now pending in the Court of ;" and after the words " said term," wherever they occur, the words " or until the completion of the said inquiry " shall be inserted ;

(*iii*) in Form XXX—

(*a*) in the heading for the word " DISTRESS " the words " ATTACHMENT AND SALE " shall be substituted ;

(*b*) after the words " dismissed as " the words " false and " shall be inserted ; and

(*c*) the words " and cannot be recovered by distress of the movable property of the said (name of complainant) " shall be omitted ;

(*iv*) in Form XXXVII, after the figures " 386 " the figure, letter and brackets " (1) (*a*) " shall be inserted ;

(*v*) in each of Forms XXXVII and XLI, the following amendments shall be made, namely :—

(*a*) in the heading, for the word " DISTRESS " the word " ATTACHMENT " shall be substituted ;

(*b*) for the words " make distress by seizure of any " the words " attach any " shall be substituted ;

(*c*) for the words " such distress " the words " such attachment " shall be substituted ; and

(*d*) for the words " property distrained " the words " property attached " shall be substituted ;

(*vi*) after Form XXXVII the following Form shall be inserted, namely :—

" XXXVII A.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE.

(*See section* 388.)

WHEREAS I, (*name*), *inhabitant of* (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release on condition of my executing a bond for my appearance on the following date (or dates), namely :—

I hereby bind myself to appear before the Court of at o'clock on the following date (or dates), namely :—

and in case of making default herein, I bind myself to forfeit to His Highness the Maharaja of Mysore, the sum of Rupees

Dated this day of 19 .

(*Signature.*)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the following date or dates, namely :—

and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Highness the Maharaja of Mysore the sum of Rupees

(*Signature.*) "

Repeal of section 39, Court-fees Regulation, 1900.

148. Section 39 of the Court-fees Regulation, 1900, is hereby repealed.

Commencement.

149 This Regulation shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

STATEMENT OF OBJECTS AND REASONS.

The Representative Assembly and the Legislative Council have urged upon the attention of Government the desirability of adopting the amendments which the Government of India have made during the past few years in the Code of Criminal Procedure. A Bill has accordingly been prepared incorporating all the changes adopted in British India, excepting those relating to racial distinctions.

The important changes made by the Bill are noticed below :—

Clause 2.—Places the recognition of the *mukhtears* on a better basis.

Clause 7.—This is intended to meet the case of a requisition from a Police Officer to arrest a man at a distance. The requisition must reveal the offence or other cause for which the arrest is to be made, so that the arresting officer can satisfy himself that the arrest could lawfully have been made without warrant by the Officer issuing the requisition.

Clause 10.—Provision is made in this clause for the investigation by a Magistrate of the claims of third parties whose property has been attached as the property of the absconding accused. This is not possible at present. Proceedings may be instituted in a Civil Court for the establishment of a claim which has been disallowed by the Magistrate within a period of one year from the date of the order of the Magistrate. If the proclaimed person appears before the specified time, the property will have to be released from attachment.

Clause 13.—By the proposed amendment the Magistrate will be prevented from proceeding upon any and every information and will have to satisfy himself as to the veracity and correctness of the information before taking any action. The Magistrate's power to detain the accused in custody will extend only up to taking further action under this chapter.

Clause 16.—Sub-Section (3) is added to Sec. 117 to enable Magistrates to take immediate steps in emergent cases to preserve the public peace or for the public safety by taking security proceedings pending the detailed inquiry.

Clause 17.—This clause provides for the rejection of sureties previously accepted on the ground of unfitness. But before such rejection an inquiry will have to be held into the fitness of the surety. The conduct of the inquiry may however be delegated to a Subordinate Magistrate.

Clause 23.—This clause provides for the stay of proceedings, pending decision of a Civil Court, by the Magistrate if he is satisfied of the *bona fides* of a dispute regarding the existence of a public right of way and the like.

Clause 24.—Under this clause a person aggrieved by an order under Section 144 of the Code will be entitled to apply to the Magistrate and show cause against the order and the Magistrate shall give him an opportunity to be heard. If the Magistrate rejects the application, he shall record his reasons.

Clause 31.—Sub-Section (1) of Section 162 has been redrafted with a view to make it clear in what way the statements made under Section 161 can be used. The statements are not to be used in any way or for any purposes except as allowed by the proviso. They are not of much corroborative value where the witness merely repeats the same statement in court and they ought not therefore to be used for the purpose of corroboration under Section 157 of the Evidence Act. If the accused wishes to rely on anything in the previous statement of a witness to the police of which he has been allowed by the Court to have a copy, he will have to prove it in the ordinary

way. If any part of the previous statement of the witness is used for the purposes of cross-examination by the accused, any other part of it may be used by the prosecution within proper limits of re-examination. This is the only way in which the prosecution will be allowed to use previous statements.

Clause 32.—By this clause a statutory obligation is cast on a Magistrate acting under Section 164 to warn an accused person about to make a confession that the same may be used against him and the certificate by the Magistrate should record the fact that the warning was given.

Clause 35.—The power of authorising detention in police custody is confined under this clause to First Class Magistrates and Second Class Magistrates specially empowered.

Clause 37.—The change effected by this clause provides for the communication of the result of the police investigation to the person who gave the first information, and for the supply of a copy of the charge sheet to the accused before the commencement of the enquiry or trial, so that he may know the case he has to meet.

Clause 43.—The necessity for obtaining sanction under Section 195 before prosecution for offences connected with the administration of justice has been removed; courts will take cognizance, however, only on the written complaint of the officer or court before whom the offence was committed.

Clause 60.—This clause provides that when two or more persons are accused of offences of the same kind committed by them jointly during the space of one year, they may be tried for the same at one trial. It also provides for the combination of charges of theft, receiving stolen property and such like offences.

Clause 64.—The procedure in awarding compensation in false and either frivolous or vexatious charges has been more clearly laid down by directing that a Magistrate in his order of discharge or acquittal may call upon the complainant to show cause why he should not pay compensation. The Magistrate will consider and record any cause shown and pass such orders as he deems fit.

Clause 77.—Under the amendment, pardon may be tendered even during investigation and it can be tendered only by a Magistrate of the first class who is enquiring or by any District Magistrate or Sub-Divisional Magistrate or with the sanction of the District Magistrate a Magistrate of the first class having jurisdiction in any place where the offence might be inquired into or tried.

Clause 90.—Under the existing law, fine can be recovered only by distress and sale of movable property. It is now proposed to enable the recovery of fine by sale of immovable property also. It is also proposed to prohibit the recovery of fine in cases where the offender has undergone the full term of imprisonment in default of payment of fine, except for special reasons such as evasion of the payment of the fine having the means to pay.

Clause 92.—When an offender is sentenced to fine only, provision is made for the payment of the fine in instalments within a particular period and also for suspension of sentence during the period on execution of a bond by the offender to appear before Court on a date to be fixed.

Clause 97.—Appeal is provided for, from an order directing security to keep the peace and appeals will lie to the Sessions Judge instead of to the District Magistrate.

Clause 124.—Provision as to bail in non-bailable cases is made less stringent. Courts are empowered to release women, sick people and persons under 16 years of age on bail in non-bailable cases and other accused persons also may be so released either by the Court or police officers unless there appear to be

reasonable grounds for believing that they have been guilty of an offence punishable with deaths or transportation.

Clause 127.—This clause will enable courts to pass orders for the custody or disposal of property during an enquiry which can be done under the existing law only after the enquiry or trial is concluded.

Clause 142.—This clause empowers the courts to release convicted persons upon probation in a larger number of cases, comprising a wider range of persons, than is permitted by the existing Section 562.

This clause also empowers the Magistrate in certain classes of cases, such as theft, misappropriation, cheating, etc., to release a first offender after admonition, having regard to his age, antecedents and other extenuating circumstances.